IN THE HIGH COURT OF JUDICATURE FOR RAJASTHAN AT JODHPUR

O R D E R

Shankarlal & Ors. Vs. State & Another
S.B. CR. REVISION PETITION NO.997/2006

Against order dated 06.09.2006 passed by Special Judge, SC/ST (Prevention of Atrocities) Act Cases and Addl. Sessions Judge, Bikaner in Criminal Case No.70/2006 (State Vs. Shankarlal).

DATE OF ORDER :: 10th November, 2006.

PRESENT

HON'BLE MR.JUSTICE SATYA PRAKASH PATHAK

Mr. J.S. Bhaleria for petitioners.

BY THE COURT:

By this petition challenge has been made to set aside the order passed by learned trial Court dated 06.09.2006 in Criminal Case No.70/2006 (State Vs. Shankarlal & Ors), whereby charges against the petitioners have been framed under Sec. 447, 435, 323/34 of the IPC.

The contention of learned counsel for the petitioners is that in the instant case since cross FIRs were filed and particularly in the present case chargesheet under Sec.435 IPC was not filed against the petitioners, therefore, the trial Court could not have ordered to frame charge under Sec.435 IPC against them as the present case is one where ingredients of Sec.435 or 436 are not present. It has also been submitted that only one hut has been burnt, therefore, framing of charge under Sec.435 IPC and other offences in view of cross case, is not proper and the impugned order passed by the trial Court is not tenable in the eye of law.

I have considered the submissions made before me and carefully perused the provisions of law particularly Sec.435 and 436 of the IPC. Sec.435, IPC reveals that if damage is caused to the property then the Court, after taking into consideration the material placed before it, can frame charge under Sec.435 of the IPC.

In the instant case, the allegations leveled are that accused petitioners along with others entered in the

field of complainant and there destroyed a hut and domestic articles. It is correct that there is a cross case in relation to the same incident but that does not mean that allegations of 447, 435, 323/34 of the IPC are prima facie not available on record. It is not essential for the Court to have discussed the entire matter in detail while framing charge. What is essential is to satisfy that prima facie material available on record is sufficient to frame charge under a particular section. If the Court comes to the conclusion that material placed before it is sufficient to frame charge then no detailed enquiry or mini trial is required to be held at the stage of framing charge and the defence of case is also not required to be gone into. The order under challenge is a reasoned one, therefore, requires no interference by this Court and the revision petition being devoid of merit deserves to be dismissed summarily.

As a result, the revision petition stands dismissed summarily.

(SATYA PRAKASH PATHAK)J.

/jpa